

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

ERIC JASON FIORENTINO, JR.

PETITIONER

v.

CIVIL NO. 1:23cv154-HSO-BWR

TYRONE NELSON

RESPONDENT

MEMORANDUM OPINION AND ORDER OF DISMISSAL

This matter is before the Court sua sponte. Pro se Petitioner Eric Jason Fiorentino, Jr., filed this Amended Petition for Writ of Habeas Corpus [8] under 28 U.S.C. § 2241.¹ He is a pretrial detainee at the Jackson County Detention Facility in Pascagoula, Mississippi. The Court has considered and liberally construed the pleadings and finds that this case should be dismissed.

Fiorentino filed the instant habeas action on May 22, 2023, challenging his pending charges from Kansas and Mississippi. Pet. [2] at 1, 3. He claims that he is being denied a speedy extradition and bond, and that the Mississippi charges constitute double jeopardy. Am. Pet. [8] at 6-7.

As he acknowledges in his Amended Petition, Fiorentino previously filed another habeas Petition in this Court, challenging the same charges. *Id.* at 2. The first case, styled *Fiorentino v. Nelson*, civil action number 1:23cv125, was filed May 19, 2023, and is still pending before the Court.

¹The Petition was originally filed in cause number 1:23cv126. Because it contained both 42 U.S.C. § 1983 and habeas claims, the habeas claims were severed and opened in this action on June 21, 2023. To the extent the Amended Petition still requests damages, those claims will be dismissed without prejudice.

A civil action, including a habeas action, may be dismissed if it is duplicative of another action pending in the same court. *Oliney v. Gardner*, 771 F.2d 856, 859 (5th Cir. 1985); *see also Norwood v. United States*, 235 F. App'x 231, 231 (5th Cir. July 24, 2007) (habeas) (citing *Pittman v. Moore*, 980 F.2d 994, 994-95 (5th Cir. 1993)); *Williams v. Thaler*, No. 3-12-cv-2667-M-BD, 2012 U.S. Dist. LEXIS 135780 at *1-2 (N.D. Tex. Aug. 30, 2012) (habeas). Because the Amended Petition attacks the same criminal charges challenged in the prior pending case, this case will be dismissed without prejudice as duplicative.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, this civil action should be and is hereby **DISMISSED WITHOUT PREJUDICE**. A separate final judgment shall issue pursuant to Federal Rule of Civil Procedure 58.

SO ORDERED, this the 26th day of January, 2024.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE